**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**COMPANY PETITION No. 89 of 1999**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE M.R. SHAH**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**CEAT FINANCIAL SERVICES LTD. - Petitioner(s)**
**Versus**
**MARDIA COPPER PRODUCTS LIMITED - Respondent(s)**

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**Appearance :**
MR PC KAVINA for Petitioner(s) : 1,
MR ANIP A GANDHI for Respondent(s) : 1,

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**CORAM : HONOURABLE MR.JUSTICE M.R. SHAH**

**Date : 02/03/2007**

**ORAL JUDGMENT**

This company petition has been filed by the petitioner under sections 433 and 434 of the Companies Act, 1956 for an appropriate order of winding up of the respondent company i.e. MARDIA

COPPER PRODUCTS LIMITED.

2. Earlier, the proceedings of this company petition were suspended/stayed, as the respondent company was before the BIFR. This company petition came up for hearing before this Court on 18-12-2006 and it was reported that proceedings before the BIFR are terminated and there was no impediment in proceeding further with the present company petition and therefore, by order dated 18-12-2006, this Court admitted the present company petition and fixed the matter for final hearing on 30th January 2007. This Court also further passed an order that the admission of the present company petition and the date of final hearing be advertised in two local newspapers namely “Indian Express” (English daily) and “Jansatta” (Gujarati daily), both Ahmedabad editions and the publication in Government Gazette was dispensed with. The aforesaid order of advertisement was passed considering Rule 24 of the Companies (Court) Rules, 1959. Rule 30 of the aforesaid Rules contemplates that an affidavit or affidavits stating whether the petition has been advertised as prescribed by rule 24 and whether the notices, if any have been duly served upon the persons required to be served shall be filed not less than 3 days before the date fixed for hearing. Such proof of the advertisement or of the service, as may be available, shall be filed along with the affidavit. As per sub section (2) of section 30, an affidavit of service on a company or its liquidator shall be in Form No.7 or 8 as the case may be.

Rule 31 of the aforesaid rules provides for

consequence of non-compliance with the requirement of the aforesaid rules as regards the advertisement and service of the petition. Rule 31 of the said rule reads as under:

> ***Procedure on default of compliance as regards advertisement and service of notice.****-In default or compliance with the requirements of the Rules or the directions of the Judge or Registrar, as regards the advertisement and service of the petition, the petition, shall on the date fixed for final hearing be posted for orders of the Judge and the Judge may either dismiss the petition or give such further directions as he thinks fit.*

3. This petition was placed for hearing on 27-2-2007 and this Court observed that as per the order dated 18-12-2004, the admission and the date of final hearing are not advertised and therefore, the matter was adjourned to today, so as to know whether rule 24 of the aforesaid Rules have been complied with or not and admission and final hearing of this petition have been advertised in two local newspapers pursuant to the order dated 18-12-2006 or not.

4. Today, when the matter is called out, Shri Kavina, learned advocate appearing on behalf of the petitioner has submitted that he has no further instruction from the petitioner despite informing them. Be that as it may, the fact remains that the rule 24 of the Companies (Court) Rules is not complied with and the admission and date of final hearing of the company petition have not been

advertised as per the order dated 18-12-2006. Thus, there is a non-compliance of Rule 24 of the aforesaid Rules. There is no application on behalf of the petitioner for extension of time for fresh date of final hearing and giving advertisement.

5. Under the circumstances considering rule 31 of the Companies (Court) Rule, 1959, the present company petition is dismissed. No costs.

(M.R. SHAH, J.)

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